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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,038	03/22/2001	Robert A. Medwick	09785980-0067	6181
25700	7590	12/15/2005	EXAMINER	
FARJAMI & FARJAMI LLP 26522 LA ALAMEDA AVENUE, SUITE 360 MISSION VIEJO, CA 92691			JERABEK, KELLY L	
			ART UNIT	PAPER NUMBER
			2612	

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/816,038	MEDWICK ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Kelly L. Jerabek	2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 November 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-6, 14-20, 25, 26 and 28 is/are allowed.
- 6) Claim(s) 7-13, 21-24, and 27 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/23/2005 has been entered.

### ***Response to Arguments***

Applicant's arguments with respect to claims 50 and 61 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 7-13, 21-24, and 27 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

Claims 7-13, 21-24, and 27 disclose "A signal bearing media having machine readable instructions for adjusting image lighting, the signal bearing media comprising:....". The Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility state that signal claims are ineligible for patent protection because they do not fall within any of the four statutory classes of USC 101 (Interim Guidelines, pages 55-58).

***Allowable Subject Matter***

**Claims 1-6, 14-20, 25-26 and 28 are allowed.**

The following is an examiner's statement of reasons for allowance:

Re claims 1-6 and 26, the prior art does not teach or fairly suggest "A method of adjusting image lighting, the method comprising: generating a preparatory light...; capturing a preparatory image...; determining an average preparatory image luminance...; generating a supplemental strobe duration...; and generating a look-up table storing associated image strobe durations and power values including a preparatory image strobe duration and associated preparatory power value".

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Re claims 14-17 and 28, the prior art does not teach or fairly suggest "A digital imaging system comprising: a processor electrically connected to a strobe; an image sensor coupled to a memory...; wherein the processor access a look-up table in the memory that stores image strobe durations and power values including a preparatory strobe duration and an associated preparatory power value".

Re claim 18, the prior art does not teach or fairly suggest "A method of adjusting image lighting on a preparatory image comprising: generating preparatory light, determining an average preparatory image luminance and generating a supplemental strobe duration, wherein the system in capable of generating a look-up table that stores image strobe durations and power values including a preparatory image strobe duration and an associated preparatory power value and generating an adjustment factor by dividing a predetermined target luminance by the average image luminance".

Re claim 19, the prior art does not teach or fairly suggest "A method of adjusting image lighting on a preparatory image comprising: generating a preparatory light...; determining an average preparatory image luminance...; generating a supplemental strobe duration; wherein the system is capable of generating a look-up table that stores image strobe durations and power values including a preparatory image strobe duration and an associated preparatory power value; generating a light adjustment factor...; multiplying the preparatory value by the light adjustment factor...; and generating a final

image strobe duration by interpolating the first and second image strobe durations in accordance with the target look-up table power value".

Re claim 20, the prior art does not teach or fairly suggest "A method of adjusting image lighting on a preparatory image comprising: generating preparatory light...; determining an average preparatory image luminance...; generating a supplemental strobe duration...; generating a look-up table storing associated image strobe durations and luminance power values including a preparatory image strobe duration and a preparatory value; and accessing the look-up table based on the average image luminance".

Re claim 25, the prior art does not teach or fairly suggest a digital imaging system comprising: "A processor connected to a strobe; and an image sensor coupled to a memory..., wherein the processor is capable of accessing a look-up table in the memory that stores image strobe durations and power values including a preparatory image strobe duration and an associated preparatory power value to generate an adjustment factor by dividing a predetermined target luminance by the average image luminance power value and then multiplying the adjustment factor by the preparatory luminance power value to derive the target luminance power value that corresponds to an identified strobe duration in the look-up table".

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

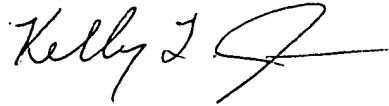
### ***Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly L. Jerabek whose telephone number is **(571) 272-7312**. The examiner can normally be reached on Monday - Friday (8:00 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ngoc Yen Vu can be reached on **(571) 272-7320**. The fax phone number for submitting all Official communications is 703-872-9306. The fax phone number for submitting informal communications such as drafts, proposed amendments, etc., may be faxed directly to the Examiner at **(571) 273-7312**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KLJ



NGOC-YEN VU  
PRIMARY EXAMINER